

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
DOCKET NO. 1:15-cr-00057-MOC-DSC

UNITED STATES OF AMERICA,)
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)
)
Vs.)
)
BRADLEY STEVEN MADERA,)
)
)
Defendant(s).)

THIS MATTER is before the court on its own motion for commitment of defendant after the court's entry of a Special Verdict after a bench trial at which it determined that defendant was not guilty only by reason of insanity at the time of the offense.

Title 18, United States Code, Section 4243 sets out the requirements for hospitalization of a person found not guilty by reason of insanity at the time of the offense charged. If a person is found not guilty by reason of insanity, the court must hold a hearing to determine whether the individual must be committed to a suitable facility until he is eligible for release pursuant to 18 U.S.C. § 4243(e). Prior to being able to conduct such a hearing, the court must order a psychiatric or psychological examination of the defendant. 18 U.S.C. § 4243(b). Once that report is received and a hearing is set, the defendant must prove by clear and convincing evidence that he would not create a substantial risk of bodily injury to another person or serious damage to the property of another. 18 U.S.C. §§ 4243(c) and (d).

While the statute provides for an initial hearing within 40 days of this court's Special Verdict (which was entered August 24, 2015 from the bench), the statute also contemplates that a defendant is not to be released until the court can make an appropriate determination as to the

safety of the community. United States v. Bohe, 2005 WL 1026701, *2 (D.N.D. April 28, 2005) (holding that “it is virtually impossible to comply with the forty-day time constraint set forth in 18 U.S.C. § 4243(c).”). The court will, therefore, reset the time for conducting a hearing to be within 40 days of the court’s receipt of the forensic report herein ordered because, as a practical matter, a defendant would be without evidence that could satisfy his burden without such report.

ORDER

IT IS, THEREFORE, ORDERED that **BRADLEY STEVEN MADERA** is committed to a suitable facility until it is found that he would not create a substantial risk of bodily injury to another person or serious damage to the property of another.

IT IS FURTHER ORDERED that a psychiatric or psychological examination of defendant be conducted pursuant to 18 U.S.C. § 4243(b) to determine whether defendant’s release would create a substantial risk of bodily injury to another person or serious damage to the property of another. Within 45 days of defendant’s arrival at the facility conducting the examination a forensic report shall be completed and filed with this court.

IT IS FURTHER ORDERED that within 40 days of such forensic report being filed with this court under seal, the Clerk of Court shall schedule a Section 4243(c) hearing to determine whether continued hospitalization is warranted.

Signed: September 16, 2015



Max O. Cogburn Jr.
United States District Judge